GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Public Services – Agriculture & Co-Operative Department – Allegation of acquisition of assets Dis-proportionate to the known sources of his Income against Sri. Vippala Prasad formerly Assistant Director, Agriculture, Yelamanchili, Visakhapatnam District (now retired) – Prosecution sanctioned – Charge sheet filed –Withdrawal of prosecution - Initiation of Departmental action entrusting the case to Commissioner of Inquiries instead of Prosecution – Orders - Issued.

AGRICULTURE & COOPERATION (VIG.I) DEPARTMENT

G.O.MS.No. 2 **Dated: 17-01-2019**
Read the following:

1. Preliminary Report of the DG, ACB in RC.No. 100/RCA-VSP /2011-S11, Dt. 18.06.2011.
2. Final report of the DG, ACB in RC. No. 100/RCA-VSP /2011-S11, Dt. 22.04.2016.
3. G.O. Ms. No.64 A&C(Vig.I)Dept., Dt:29-7-2016
4. Charge sheet filed in C.C. No.20/2017, dt: 04.07.2017 by the Investigating Officer, Anti Corruption Bureau.
5. Representation of Sri. Vippala Prasad, AD, Agriculture (now retired) Dt.31-7-2016

O R D E R:-

Whereas, in the reference 1st read above, the Director General of Anti Corruption Bureau, A.P. Hyderabad, submitted preliminary report that Sri Vippala Prasad, S/o Pydayya, Assistant Diretor, Yelamanchili, had acquired Disproportionate Assets to his known sources of Income in his name, in the name of his Father, Mother, Wife and Son and as well as Others and a case was registered in Crime No. 08/RCA-VSP/2011, Dt. 29.04.2011 under Sec. 13(2) read with 13(1)(e) of the P.C. Act,1988 to a tune of Rs.2,27,41,952/-.

2. And whereas, in the reference 2nd read above, the Director General of Anti Corruption Bureau has submitted his final report to the Government duly requesting for accord permission to prosecute the Accused Officer in the Court of Law in respect of allegation of acquisition/ possession of disproportionate assets to his known sources of income. Further, in addition to the prosecution, the Bureau also recommended to initiate Disciplinary Proceedings against the Accused Officer for violation of provisions of APCS (Conduct) Rules,1964 in not obtaining permission/ intimation and also failure in filing the Annual Property Returns in terms of the Sub-rule (1), (7) and (8) of Rule 9 of the said Rules.

3. And whereas, in the final report of the Director General of Anti Corruption Bureau stated that the Income of Sri Vippala Prasad (Accused Officer) during the

P.T.O.

"check period" the Accused Officer acquired and in possession of Assets to a tune of Rs. 1,90,74,419/- and the Income of the Accused Officer from his known sources of Income, comes to Rs.1,15,09,819/- and his total Expenditure during the check period was Rs.1,26,79,106/- and the excess expenditure during the check period was Rs.11,69,287/-. Therefore the total Disproportionate Assets acquired and possessed by the Accused Officer was Rs.2,02,43,706/- (assets Rs.1,90,74,419/- + excess expenditure Rs.11,69,287/-). He has therefore requested to sanction prosecution orders.

4. And whereas, the Government, in the reference 3rd read above, accorded permission / sanction to prosecute the Accused Officer Sri Vippala Prasad, S/o.Sri Pydayya, Assistant Director or Agriculture®, Yelamanchili, Visakhapatnam District.

5. Whereas, pursuant to the reference 4th read above, the Investigating Officer filed Charge-sheet in C.C.No.20/2017, Dt.04-07-2017 before the IIIrd Additional District Sessions Judge- cum- Special Judge for ACB cases, Visakhapatnam.

6. Whereas, in the reference 5th read above, Sri Vippala Prasad, Assistant Director, Agriculture, Yelamanchili presently retired (on 31-07-2016) being Accused Officer in this case has filed a representation to the Government along with the documentary evidences in support of his version that he did not possess any Disproportionate Assets to his known sources of Income. Further, Sri Vippala Prasad (Accused Officer) contended that the Investigating Officer did not taken into consideration of the documentary evidence filed before him and added the properties of Father, Mother, Son and Wife those who are having their own sources of sufficient Income and Independent Income Tax assesses on the Rolls of the Income Tax Department. Nevertheless, the Investigating Officer added the properties of other members as of his properties and implicated him in this case and duly violating the Sub-rule V of Rule 2 of the APCS Conduct Rules, 1964. In fact, the assets of his father, mother and the properties of his major Son and Wife, who are independent Income Tax assesses and pursuing business since 1961,2000 & 2009 respectively, however keeping aside the said facts on records and added all their Assets put together worth Rs.1,90,37,440/-; and they were reckoned as of his properties. The Accused Officer further contended that his Father has been administering business since 1961 in Adda leaves and also assesse on the rolls of the Sales Tax Department vide APGST Sales Tax registration No. VSP/06/05/1022, as well as on Income Tax Department also vide ABRPV2615A besides individual status and also HUF, vide PAN: AACHV0624F. With regard to his Mother she is also an assessee on the rolls of the I.T. Department vide PAN ACSPV4297L and his Wife is also an assessee on the rolls of the Sales Tax Department vide Sales Tax Registration No. VSP/06/6/1174 and I.T assessee vide PAN:ADGPV6808E besides his major Son,

Cont.,…3

Sri V. Vamsi Mohan, who is running Cashew Industry and registered as assessee under the APVAT Act, 2005 bearing TIN No. 28544124390 and also Income Tax assessee vide PAN : AFWPV8418E. In order to run the business, his son obtained required statutory permissions from 16 Departments concerned.

7. And whereas, the Government have examined the matter carefully with reference to the statute documentary evidences of the Income of the Accused Officer and others which have not been taken into Rational consideration by the Investigating Officer, filed by the Individual in detail, which are as follows:

The Father of the Individual had earned Income during the check period from his own source of Income of Rs.94,18,730/- and acquired assets Rs.52,35,494/- and incurred Expenditure to a tune of Rs. 8,67,656/- if the assets and Expenditure subtracted from the Income then there is a surplus funds in the hands of his father of the Accused Officer; 2) with regard to his mother Income Rs.10,02,184/- and acquired assets Rs.57,260/- and incurred Expenditure to a tune of Rs.NIL if the assets and Expenditure subtracted from the Income, there is a surplus funds in the hands of his mother; 3) with regard to his Son Income Rs.1,70,74,524/- and acquired assets Rs.1,37,44,686/- and incurred Expenditure to a tune of Rs.21,90,203/- if the assets and Expenditure subtracted from the Income there is a surplus in the hands of his Son and 4) with regard to his wife Income Rs.47,79,718/- and acquired assets Rs. 6,38,654/- and incurred Expenditure to a tune of Rs.8,40,399/- if the assets and Expenditure subtracted from the income there is a surplus funds in the hands of his wife. The Investigating Officer did not dispute the quantum of Income and the sources, from which they earned the said Income or any documentary evidence filed by the Accused Officer in support of his defense.

8. Whereas, the Accused Officer further contended that all the above (4) individuals, whose properties were tagged to him, have also been disclosed by them to the Income Tax Department about their assets in their returns. But, strangely, the Investigating Officer, Anti Corruption Bureau did not consider the facts on record. The Accused Officer further contended that if the guidelines issued by the Government in terms of the Circular Memos in Nos.623/SPL.C/A1/2008-1, Dt.15-10-2008 was considered by the Investigating Officer, then, there would not be Disproportionate Assets in his hands. The individual has also enclosed the copies of Annual Property Returns and Letters of Intimations/ Permissions filed to the Competent Authorities concerned from time to time, in terms of the rules in vogue, the copies of the same, he has furnished along with his Representation.

As regards his Expenditure incurred by the family members during the check period, the individual contended that the figures, so indicated in the report of the

ACB, are inflated to fabricate a case of Disproportionate Assets, whereas, all the members used to lead a simple and frugal life.

9. And whereas, the Accused Officer further contended that his Assets, Income and Expenditure held in the name of the Accused Officer and if the value of the assets Rs. 12,95,357/- held in the name of the Accused Officer and expenditure incurred Rs.28,76,873/- income of Rs.76,76,890/- were subtracted from (76,76,890-41,72,230) then, there would not be any Disproportionate Assets held in his name and there will be surplus savings in the hands of the Accused Officer.

10. And whereas, the Accused Officer further contended with regard to Assets, Income and Expenditure held in the name of the persons Father, Mother, Wife and Son observed as under.

ABSTRACT

Name of the Individual	**Total income as per IT & on record**	**Total Expenditure**	**Total savings (2 -3)**	**Total Actual Assets value**	**Surplus (+) / Deficit(-)**
(1)	**(2)**	**(3)**	**(4)**	**(5)**	**(6)**
V.Rajeswari,(Wife)	Rs. 47,79,718/-	Rs.8,40,399/-	Rs.39,39,319/-	Rs. 6,38,654/-	(+)Rs.33,00,665/-
V.V.Vamsee Mohan (Son)	Rs.1,70,74,524/-	Rs.21,90,203/-	Rs.1,48,84,321/-	Rs. 1,37,44,686	(+)Rs 11,39,635/-
V.Pydayya, & VA Ratnam Father & Mother	Rs. 94,18,730/- Rs. 10,02,184/-	Rs.8,67,656/- Rs. Nil	Rs.85,51,074/- Rs.10,02,184/-	Rs. 52,35,494/- Rs. 57,260/-	(+)Rs.33,15,580/- (+)Rs. 9,44,924/-

Contd.,…5

Finally, he has therefore requested to with draw the prosecution orders issued by the Govt in the ref. 3rd read above.

11. The Government, after careful examination of the matter, it is observed that in terms of the guidelines issued by the Government through Memo No.623/SPL.C/A1/2008-I, Dt.15-10-2008 while assessing the value of the properties and the details filed with the Taxation Authorities and in the Annual Property Returns, shall be given due weightage while calculating the Disproportionate Assets. It is also observed that the properties of kith and kin of the Accused Officer should not automatically be added to the Property of the Accused Officer without proper analysis of the sources of such Assets of Kith and Kin and others. These instructions should be undertaken before arriving at a decision to include the same in the properties of the Accused Officer. In the instant case of the individual, Sri Vippala Prasad after taking all the aspects into consideration, keeping in view of the totality of facts and circumstances of the case and have noticed that the Assets and Expenditure of Sri. Vippala Prasad, formerly Assistant Director, Agriculture, Yelamanchili are found to be within the limits of the individual income. Further the fact of the individual track record of service with no complaints of corruption or misuse of official position. However, the interpretation of the Investigating Officer is based on the probabilities, if not presumption, such an interpretation does not stand the scrutiny of Judicature in Criminal Investigation and the issue shall be proved beyond reasonable doubt, as there is no concrete and clinching evidence is coming forth to prove the value of the Assets listed in the Report were acquired by the individual and also to prove the accuracy of the Expenditure indicated in the list of Expenditure. Hence the Government is inclined to believe that this case is not fit for, to continue the Prosecution and the ends of justice could be met by initiating Commission of Inquiries, if there is any preponderance of probability in respect of the assets possessed by the Charged Officer. Therefore, the Government have decided to entrust the case to Commissioner of Inquiries instead of Prosecution against the Charged Officer duly invoking the inherent powers vested with.

12. Accordingly, the Government, in exercise of its powers conferred under APCS (CC&A) Rules, 1991 hereby ordered to conduct enquiry through the Commissioner of Inquiries instead of Prosecution duly rescinding the orders issued in the reference 3rd read above.

13. The Director General of Anti Corruption Bureau, A.P., Vijayawada shall furnish the Draft Articles of Charges, statement of Imputation along with its enclosures with the required material for taking further action in the matter. The Director General of

P.T.O

Anti Corruption Bureau shall also direct the Public Prosecutor to file the Withdrawal Petition of Prosecution before the Anti Corruption Bureau Court concerned.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

B.RAJSEKHAR
SPECIAL CHIEF SECRETARY TO GOVERNMENT(FAC)

To
The Director General
Anti Corruption Bureau, Andhra Pradesh, Vijayawada.
SF/SCs.

// FORWARDED :: BY ORDER //

SECTION OFFICER